

LEGAL UPDATE



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ENFORCEMENT

There is no penalty or fee for employers that offer prescription drug coverage that is non-creditable. Non-creditable prescription drug coverage can still be a valuable benefit for employees.

However, individuals need to know whether their prescription drug coverage is creditable or non-creditable. If the coverage is non-creditable and Medicare-eligible individuals fail to enroll in Part D during their initial enrollment period, they can be subject to a higher Part D premium if they enroll in Part D at a later date.

Employers should confirm whether their health plans' prescription drug coverage for 2025 is creditable or non-creditable as soon as possible to prepare to send the appropriate Medicare Part D disclosure notices.

CMS Preserves Creditable Coverage Simplified Determination Method in Final Part D Instructions for 2025

On April 1, 2024, the Centers for Medicare and Medicaid Services (CMS) issued [Final Part D Redesign Program Instructions](#) for calendar year 2025. The Final Program Instructions contain a detailed description of, and guidance related to, changes to the Part D benefit newly in place for calendar year 2025 made by the Inflation Reduction Act of 2022 (IRA). Among other things, these changes impact the creditable coverage status of employer-sponsored prescription drug coverage beginning in 2025.

Creditable Coverage

Employers that provide prescription drug coverage to individuals who are eligible for Medicare Part D must inform these individuals and CMS whether their prescription drug coverage is **creditable**, meaning that the employer's prescription drug coverage is at least as good as Medicare Part D coverage. Under [existing CMS guidance](#), there are a few different ways for an employer to determine whether its prescription drug coverage is creditable:

- As a first step, employers with insured prescription drug plans should ask their carriers if they have determined whether the plan's coverage is creditable.
- For self-insured plans, or where the carrier for an insured plan has not made a determination about whether the plan is creditable, employers may use a **simplified determination** as long as the coverage meets certain design requirements. If it doesn't, the employer must use an **actuarial determination method**.

Part D Redesign Program Instructions

Previously, CMS stated in its Draft Part D Redesign Program Instructions that the simplified determination method would no longer be valid as of calendar year 2025, given the significant changes made to Medicare Part D by the IRA.

However, according to the Final Program Instructions, **CMS will continue to permit the use of the simplified determination methodology, without modification, for calendar year 2025 for group health plan sponsors who are not applying for the retiree drug subsidy**. In future guidance, CMS will reevaluate the continued use of the existing simplified determination methodology or establish a revised one for calendar year 2026.

CMS Resources

CMS has issued a [fact sheet](#) on the Final Program Instructions that summarizes key policies and provides an overview of changes to the Part D benefit. Additional information and resources on the IRA's changes to Medicare Part D are available on CMS' [Part D Improvements webpage](#).